1		The Honorable Thomas S. Zilly	
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8	UNITED STATES DIST	RICT COHRT	
9	WESTERN DISTRICT OF AT SEATTL	WASHINGTON	
10 11	AI SEATTL	JE	
12	BAINS LLC d/b/a Flying B,		
13	Plaintiff,	NO. C01-0235Z	
14	v.		
15		PLAINTIFF'S RESPONSE TO SEPTEMBER 13, 2005 MINUTE ORDER	
16	ARCO PRODUCTS COMPANY, a division) of Atlantic Richfield Co.	-,	
17	ll '		
18	Defendants,)		
19	This case is before the Court on remand from the United States Court of		
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21	Appeals for the Ninth Circuit. By minute order of September 13, 2005, this Court		
22	ordered plaintiff to submit notice of whether it elects a new trial or remittitur of the		
- 11	punitive damages award to an amount between \$	\$300,000 and \$450,000. This Court	
24	issued its minute order pursuant to the Ninth Circuit's April 19, 2005 opinion in this		
25	case.		
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1 Plaintiff hereby advises the Court that it does not elect a new trial. With regard 2 to remittitur, plaintiff respectfully submits that the amount of punitive damages should 3 not be remitted below \$450,000. 4 The parties have previously provided extensive briefing on the appropriate 5 6 amount of punitive damages. This Court upheld the jury's punitive damages award in 7 its entirety. Bains LLC v. ARCO Prods. Co., 220 F. Supp. 2d 1193 (W.D. Wash. 8 2002). All of the same reasons previously advocated by plaintiff to uphold the punitive 9 award in its entirety, and expressed by this Court in its post-trial decision, justify 10 11 setting the amount of punitive damages at the maximum amount permitted by the Ninth 12 Circuit's decision. The parties have been fully heard on this issue. 13 Accordingly, plaintiff requests that judgment be entered remitting the punitive 14 award to \$450,000, together with all amounts previously awarded for compensatory 15 16 damages, nominal damages, attorneys' fees and costs, and interest from the dates of the 17 original judgments. 18 DATED this \5" day of September, 2005. 19 20 Edwin S. Budge, WSBA # 24182 21 Erik J. Heipt, WSBA # 28113 22 of Budge & Heipt, P.L.L.C. Attorneys for Plaintiff 23 24 25 26 27 28